

## REMARKS

Claims 1-23 and 25-30 are pending in the application. Claims 1, 14, 23, and 27 are independent. By the foregoing Amendment, Applicants have amended claim 1. These changes are believed to introduce no new matter and their entry is respectfully requested.

### Rejection of Claims 1-13 Under 35 U.S.C. §112, Second Paragraph

In the Office Action, the Examiner rejected claims 1-13 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention, citing informalities. By the foregoing Amendment, Applicants have amended claim 1 (and claims 2-13 by dependency from claim 1) to accommodate the Examiner. Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection.

### Provisional Rejection of Claims 1-23 and 25-30 Under Obviousness-Type Double

#### Patenting

In the Office Action, the Examiner provisionally rejected claims 1-23 and 25-30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of copending U.S. Application No. 10/646,606 (hereinafter “‘606 application”) and the claims of copending U.S. Application No. 10/302,281 (hereinafter “‘281 application”). Applicants respectfully traverse the rejection. Because this is a provisional rejection, Applicants respectfully await the actual outcome of the prosecution of the ‘606 and ‘281 applications.

### Rejection of Claims 1-8 Under 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 1-8 under 35 U.S.C. §103(a) as being obvious over U.S. Publication No. 2003/0229694 to Tsai et al. (hereinafter “*Tsai*”) in view of U.S. Patent No. 7,100,031 to Reasor et al. (hereinafter “*Reasor*”). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references teach each and every element of the claimed invention. (MPEP §2143.) *citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). A patent composed of several

elements is not proven obvious merely by demonstrating that each of its elements was independently known in the prior art. *KSR Int'l C. v. Teleflex, Inc.*, No 04-1350 (U.S. Apr. 30, 2007). If a combination or modification to a reference is used, an Examiner must show that there is some expectation of success that the combination or modification proffered would predictably result in the claimed invention. Obviousness is a question of law based on underlying factual inquiries. The factual inquiries enunciated by the U.S. Supreme Court in *KSR* include the *Graham* factors of determining the scope and content of the prior art, ascertaining the differences between the claimed invention and the prior art, and resolving the level of ordinary skill in the pertinent art.

Once the *Graham* factual inquiries are resolved, the Examiner must explain why the difference(s) between the cited references and the claimed invention would have been obvious to one of ordinary skill in the art. The rationale used must be a permissible rationale. The USPTO promulgated Examination Guidelines for Determining Obviousness in View of *KSR* in the Federal Register, Vol. 72, No. 195 (October 10, 2007). These *KSR* Guidelines enumerate permissible rationales and the findings of fact that must be made under the particular rationale.

Applicants respectfully submit that the Examiner has failed to show that *Tsai* in view of *Reasor* teaches each and every element of claim 1. Claim 1 recites in pertinent part “executing a task at the remote computer independent of an operating system of the remote computer, wherein the task is expressed in a scripting language” (emphasis added). Support for these changes can be found in original claim 24; thus, no new search is required.

In paragraph 14 of the Office Action with reference to claim 7, the Examiner concedes that *Tsai* does not disclose wherein the programming code is a scripting language. The Examiner cites *Reasor* for disclosing wherein programming code is a scripting language, i.e., a generic instruction. Applicants respectfully disagree.

Applicants respectfully submit that the Examiner has provided no basis in fact that the generic instruction in *Reasor* is equivalent to a scripting language of the present invention. In *Reasor*, the generic instruction is described as a function and/or flat that initiates another function. Applicants respectfully submit that the Examiner’s assertion that this “generic

instruction” is equivalent to a scripting language is unsupported by any evidence. The Examiner provides no references to support this conclusion. The Examiner merely asserts that they are equivalent, which is improper. Thus, Applicants respectfully submit that the generic instructions *Reasor* does not refer to a scripting language. Applicants respectfully submit that, because *Tsai* in view of *Reasor* fails to disclose each and every element of claim 1, *Tsai* in view of *Reasor* fails to render claim 1 obvious. Because *Tsai* in view of *Reasor* fails to render claim 1 obvious, Applicants respectfully submit that claim 1 is patentable over *Tsai* in view of *Reasor*.

Claims 2-8 properly depend from claim 1. Accordingly, Applicants respectfully submit that claims 2-8 are patentable for at least the same reasons that claim 1 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 1-8.

Rejection of Claims 9-23 and 25-30 Under 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 9-23 and 25-30 under 35 U.S.C. §103(a) as being obvious *Tsai* in view of *Reasor* in further view of U.S. Patent No. 5,715,387 to Barnstijn et al. (hereinafter “*Barnstijn*”). Applicants respectfully traverse the rejection.

Applicants respectfully submit that *Tsai* in view of *Reasor* in further view of *Barnstijn* fails to disclose each and every element as recited in independent claims 14, 23, and/or 27. Representative amended claim 14 recites in pertinent part” executing a task contained in the request packet, ***wherein the task is expressed in a scripting language***, wherein executing the task is performed independent of the operating system of the remote computer” (emphasis added). Independent claims 23 and 27 include similar language. Support for these changes can be found in original claim 24.

As discussed above with reference to claim 1, Applicants respectfully submit that the Examiner has provided no basis in fact that the generic instruction in *Reasor* is equivalent to a scripting language of the present invention. In *Reasor*, the generic instruction is described as a function and/or flat that initiates another function. Applicants respectfully submit that the Examiner’s assertion that this “generic instruction” is equivalent to a scripting language is

unsupported by any evidence. The Examiner provides no references to support this conclusion. The Examiner merely asserts that they are equivalent, which is improper. Thus, Applicants respectfully submit that the generic instructions *Reasor* does not refer to a scripting language.

Applicants respectfully submit *Barnstijn* fails to make up for this deficiency. In response to the previous Paper dated June 28, 2007, the Examiner appears to have conceded this point. For instance, the Examiner originally cited *Barnstijn* for disclosing wherein programming code is a scripting language, but does not do so in the present Paper. Thus, *Barnstijn* fails to teach this element.

Applicants respectfully submit that because *Tsai* in view of *Reasor* in further view of *Barnstijn* fails to disclose each and every element of claims 14, 23, and/or 27 *Tsai* in view of *Reasor* in further view of *Barnstijn* fails to render claims 14, 23, and/or 27 obvious. Because *Tsai* in view of *Reasor* in further view of *Barnstijn* fails to render claims 14, 23, and/or 27 obvious, Applicants respectfully submit that claims 14, 23, and/or 27 are patentable over *Tsai* in view of *Reasor* in further view of *Barnstijn*.

Claims 9-13 properly depend from claim 1 and are thus patentable for at least the same reasons that claim 1 is patentable. Claims 15-22 properly depend from claim 14 and are thus patentable for at least the same reasons that claim 14 is patentable. Claims 25-26 properly depend from claim 23 and are thus patentable for at least the same reasons that claim 23 is patentable. Claims 28-30 properly depend from claim 27 and are thus patentable for at least the same reasons that claim 27 is patentable. (MPEP §2143.03 (citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). Accordingly, Applicants respectfully request that the Examiner reconsider and remove the rejection to claims 9-23 and 25-30.

### CONCLUSION

Applicants respectfully submit that all grounds for rejection have been properly traversed, accommodated, or rendered moot and that the application is now in condition for allowance. The Examiner is invited to telephone the undersigned representative if the Examiner believes that an interview might be useful for any reason.

Respectfully submitted,

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I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

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